

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEBRASKA

CHRISTOPHER FRYETT,)	
)	
Plaintiff,)	8:05CV553
)	
v.)	
)	
UNION PACIFIC RAILROAD)	ORDER
and BASS & ASSOCIATES,)	
)	
Defendants.)	
_____)	

This matter is before the Court on plaintiff's motion seeking an extension of all scheduled deadlines (Filing No. 46).

Case management orders "shall not be modified except upon a showing of good cause and by leave of the district judge." Fed. R. Civ. P. 16(b). "Thus, a moving party must first make the requisite showing." *Bradford v. Dana Corp.*, 249 F.3d 807, 809 (8th Cir. 2001). "The primary measure of Rule 16's 'good cause' standard is the moving party's diligence in attempting to meet the case management order's requirements." *Bradford*, 249 F.3d at 809 (*citing Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992)).

The final progression order was entered by the Court on July 7, 2006, setting a discovery deadline of January 26, 2007 (Filing No. 15). Plaintiff allowed over five and one-half months to elapse before filing written discovery on December 26, 2006. Where plaintiff failed to act until only one month remained in the scheduled discovery period before beginning to conduct

discovery, the Court finds that the plaintiff has not demonstrated the requisite diligence necessary to justify an extension of all scheduled deadlines.

Also pending are motions for sanctions (Filing Nos. 32, 35 and 42 (which amends Filing No. 32)). The first motion (Filing No. 32) will be denied as moot. The remaining motions will be ruled on when the Court rules on the motions for summary judgment. Accordingly,

IT IS ORDERED:

1) Plaintiff's motion seeking an extension of all scheduled deadlines (Filing No. 46) is denied.

2) Defendant Bass & Associations motion for sanctions (Filing No. 32) is denied as moot as it has been amended by Filing No. 42.

DATED this 19th day of February, 2007.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court